IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 9804 of 2021

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Shri Sai Chandra Infrawell Pvt. Ltd. a registered company having its place of business at flat number 201, Sundar Lal Palace, West boring Canal Road, Anandpuri, Patna – 800001 through it's Director namely Sanjay Kumar Singh male aged about [illegible] years son of Chandradip Singh, resident of House No. 16, Mahui, Bigaha, Manjhi Saran – 841212. .... Petitioner

Versus

1. The State of Bihar through the Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Principal Secretary cum Commissioner, Department of State Taxes, Government of Bihar, Patna.
3. The Joint Commissioner of State Taxes, central Circle, Patna. [October 2018 to March – 2019]

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate
Mr. Rahul, Advocate

For the Respondent/s : Mr. Vikash Kumar, S.C. 11

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

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(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing

from their residences/offices.)

Date : 07-07-2021

Petitioner has prayed for the following relief(s):

a) For issuance of a writ in the nature of certiorari for quashing of the ex - parte order dated 05.03.2020 issued in form GST DRC – 07 dated 05.03.2020 under rule 142 (5) of the Bihar Goods And Services Tax Rules, 2017 (hereinafter referred to as the "Bihar rules 2017" for short) passed by the respondent number 3 under section 74 (1) of the Bihar Goods And Service Tax Act, 2017 (hereinafter referred to as the "Bihar act 2017" for short);

b) For holding and a declaration that the impugned order dated 05.03.2020 passed by the respondent No. 3 is highly cryptic, misconceived, nonspeaking and violative of principles of natural justice;

c) For further issuance of a writ in the nature of certiorari for quashing of the notice issued by the respondent No. 3 in form GST DRC – 13 dated 17.02.2021 vide process number 487 whereby the employer of the petitioner has been called upon to remit the amount in demand as per the impugned order dated 05.03.2020;

d) For issuance of a writ or order or direction restraining the respondent No. 3 from making any coercive recovery of the amount in demand (tax, interest and penalty) as contained in the order dated 05.03.2020 during the pendency of the present writ application;

e) For holding and a declaration that once the petitioner has discharged the tax liability and also admitted the deficient turnover in the annual return filed in form GST R – 9 for the financial year 2018 – 2019, no liability of tax would survive and therefore the respondent No. 3 is not entitled to recover the tax amount in demand;

f) For further holding and a declaration that once the petitioner has discharged the outstanding tax liability by debiting the credit balance in the electronic credit Ledger, no liability of interest would be attracted in terms of section 50 (1) proviso inserted after amendment in the year 2019;

g) For further issuance of a writ or order or direction upon the respondent No. 3 to refund the amount already recovered from the cash ledger of the petitioner in exercise of powers under section 79 of the Bihar act 2017;

h) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case.

Learned counsel for the petitioner seeks permission to withdraw the present petition for the reason that petitioner has already taken recourse to the remedies provided under the Statute.

Shri Gautam Kejriwal, learned counsel for the petitioner informs us that the appeal is pending consideration before the Appellate Authority.

Shri Vikash Kumar, learned Standing Counsel No. 11 states that the Appellate Authority shall positively decide the appeal expeditiously and preferably within a period of three months, of course after complying with the principles of natural justice. Also, while considering and deciding the appeal, the ground of delay shall not be taken into account and the appeal shall be decided on merits. Also, during pendency of the appeal, no coercive steps shall be taken against the petitioner.

Statement accepted and taken on record.

The instant petition sands disposed as withdrawn.

Interlocutory Application(s), if any, also stands disposed of.

Learned counsel for the respondents undertakes to communicate the order to the appropriate authority through electronic mode.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sujit/PKP-

AFR/NAFR	
CAV DATE	
Uploading Date	14.07.2021
Transmission Date	